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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re LEONARDO E., a Person Coming  
Under the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

LEONARDO E.,

Defendant and Appellant.

D052610

(Super. Ct. No. J217520)

APPEAL from a judgment of the Superior Court of San Diego County, Amalia L. Meza, Judge. Affirmed.

Leonardo E. entered a negotiated admission to one count of vandalizing property causing \$400 or more in damages (Pen. Code, § 594, subd. (a)(b)(1)). Four allegations that Leonardo attempted to steal or take a vehicle (Pen. Code, § 664/Veh. Code, § 10851, subd. (a); Pen. Code, §§ 664/487, subd. (d)) were dismissed with a *Harvey* (*People v. Harvey* (1979) 25 Cal.3d 754) waiver. The juvenile court declared Leonardo a ward

(Welf. & Inst. Code, § 602)<sup>1</sup> and placed him on probation, conditioned on, among other things, his payment of \$5,835.42 in restitution to one victim and \$150 in restitution to another victim.

Leonardo appeals, contending the evidence was insufficient to show he was responsible for the entire \$5,835.42 in damages suffered by one victim.

### FACTS

This case involves two incidents—the attempted theft of a motorcycle in March 2007 and the theft of a motorcycle in July 2007.

In the March 2007 incident, Leonardo and three other people attempted to cut the security cable attached to a 2005 Honda motorcycle parked in the underground garage at an apartment complex on Friars Road. The group was unsuccessful in cutting the cable and left without the motorcycle. A security guard, who witnessed the attempted theft on a surveillance camera, called the police. Leonardo and his companions were arrested. In connection with this incident, Leonardo faced allegations that he attempted to steal the motorcycle and attempted to drive or take the motorcycle. Under the plea bargain, these allegations were dismissed with a *Harvey* waiver. As a result of this incident, the court ordered Leonardo to pay \$150 in restitution for the damaged cable.<sup>2</sup>

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<sup>1</sup> Further statutory references are to the Welfare and Institutions Code.

<sup>2</sup> Leonardo does not challenge the probation condition he pay \$150 in restitution to the victim of the damaged cable.

In the second incident, Michael Eaker's Suzuki GSXR-600 motorcycle was stolen from his home in Vista between 1:00 a.m. and 5:30 a.m. on July 17, 2007. The motorcycle had been hot-wired. Later that morning, the Chula Vista Police Department located the stolen motorcycle at an apartment complex. A police surveillance team watched the motorcycle for six hours. At about 4:30 p.m., two automobiles—a Volvo and a Mitsubishi Gallant—began circling the motorcycle; this activity continued for an hour. Eventually, the Mitsubishi Gallant parked about 10 feet from the motorcycle. Leonardo got out of the vehicle on the passenger side and approached the motorcycle; he was carrying a helmet and gloves. Leonardo mounted the motorcycle and put on the helmet. Within 20 seconds, police converged on Leonardo and the motorcycle. Police arrested Leonardo and the other individual in the Mitsubishi Gallant.

After Eaker recovered his motorcycle, he noticed the ignition and lock set assembly had been damaged and various wires had been cut. Also, the motorcycle had a number of dents and scratches. Eaker had purchased the motorcycle four months earlier from a dealership. Eaker said the motorcycle had no damage before it was stolen. He obtained a repair estimate from the dealership in the amount of \$5,835.42. This estimate included \$700 in repairs that Eaker had paid before the restitution hearing to get the motorcycle "up and running."

## DISCUSSION

Leonardo contends the juvenile court erred by requiring him to pay \$5,835.42 in restitution to Eaker because there was insufficient evidence that his conduct caused this amount of damages.

Victim restitution is authorized in juvenile cases by section 730.6, subdivision (h), which requires restitution to "be imposed in the amount of the losses, as determined." (See also § 730.6, subd. (a)(2) [in addition to other penalties, the juvenile court must order a ward to pay "[r]estitution to the victim or victims, if any, in accordance with subdivision (h)" of section 730.6].)

Under section 730.6, subdivision (h), the juvenile court must "order full restitution unless it finds compelling and extraordinary reasons for not doing so, and states them on the record." A restitution order must "be of a dollar amount sufficient to fully reimburse the victim or victims for all determined economic losses incurred as the result of the minor's conduct for which the minor was found to be a person described in Section 602 . . . ." (§ 730, subd. (h).) "The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible." (§ 730, subd. (h)(1).)

The intent of the statutory provision is to require a probationary offender to make full restitution for all losses his or her crime has caused. (*In re Brittany L.* (2002) 99 Cal.App.4th 1381, 1388-1389 (*Brittany L.*); see also § 730.6, subd. (a)(1) [legislative intent is that victim who suffers economic loss as a result of minor's conduct to receive restitution directly from minor].) Requiring juvenile wards to pay victim restitution has both a deterrent as well as a rehabilitative effect. (*Brittany L.*, at p. 1387.) The juvenile court may use any rational method of determining the amount of victim restitution as long as it is reasonably calculated to make the victim whole and is consistent with the goal of rehabilitation. (*Id.* at pp. 1391-1392.)

We review a restitution order imposed pursuant to section 730.6 for abuse of discretion. (*In re Johnny M.* (2002) 100 Cal.App.4th 1128, 1132.) A victim's right to restitution is to be broadly and liberally construed. We affirm a juvenile court's order that a minor pay restitution " "[w]hen there is a factual and rational basis for the amount of restitution ordered by the trial court." ' ' (*Ibid.*)

We conclude the juvenile court did not abuse its discretion by conditioning Leonardo's probation on his payment of \$5,835.42 in restitution to Eaker for the damages to his motorcycle. This probation condition was supported by the written repair estimate presented by Eaker and Eaker's testimony that there was no damage to the motorcycle before it was stolen.

Leonardo argues his conduct of sitting on the motorcycle, as well as his admission to vandalism causing damage in an amount exceeding \$400, was not the direct cause of Eaker's total loss because he could not have caused that much damage during the 20 seconds he was on the motorcycle.

Restitution has been found proper where the loss was caused by related conduct not resulting in a conviction. (*People v. Carbajal* (1995) 10 Cal.4th 1114, 1121.) Here, the court properly could consider the attempted vehicle theft counts, which were dismissed with a *Harvey* waiver. In juvenile cases, "statutory mandates and good sense require consideration of all relevant circumstances when deciding the level of restriction to be imposed, even those related to dismissed allegations." (*In re Jimmy P.* (1996) 50 Cal.App.4th 1679, 1684.) There was no abuse of discretion in ordering Leonardo to pay restitution in the total amount of the motorcycle repairs because the record

establishes a sufficient connection between Leonardo's conduct and the damages to the motorcycle.

"California courts have long interpreted the trial courts' discretion to encompass the ordering of restitution as a condition of probation even when the loss was not necessarily caused by the criminal conduct underlying the conviction." (*People v. Carbajal, supra*, 10 Cal.4th at p. 1121; and see *In re I.M.* (2005) 125 Cal.App.4th 1195, 1209-1210.) Restitution is not limited to the direct consequences of the criminal acts of which the defendant is actually convicted. (*People v. Baumann* (1985) 176 Cal.App.3d 67, 76.)

A court's discretion to impose conditions of probation in a juvenile case is greater than in adult criminal cases. (*In re Tyrell J.* (1994) 8 Cal.4th 68, 81, overruled on another ground in *In re Jaime P.* (2006) 40 Cal.4th 128, 130.) Restitution is not limited to losses directly caused by the minor; it may include losses caused by conduct the minor partially participated in or conduct the minor aided and abetted. (*In re S.S.* (1995) 37 Cal.App.4th 543, 550; see also *People v. Arnold* (1994) 27 Cal.App.4th 1096, 1097-1098, 1100.)

The juvenile court acted within its discretion in conditioning Leonardo's probation on his payment of restitution to Eaker in the total amount of the victim's loss.

DISPOSITION

The judgment is affirmed.

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McDONALD, Acting P. J.

WE CONCUR:

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McINTYRE, J.

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O'ROURKE, J.